STANFORD UNIVERSITY LIBRARY
SEP
18
1916

FRANCISCI DE VICTORIA

DE IVRE BELLI RELECTIO

BY

HERBERT FRANCIS WRIGHT

A DISSERTATION

Submitted to the Faculty of Letters of the Catholic University of America in Partial Fulfillment of the Requirements for the Degree of Doctor of Philosophy

---

STANFORD UNIVERSITY LIBRARIES
WITHDRAWN

WASHINGTON
PUBLISHED BY THE AUTHOR
1916

3781
C36W
UNCLASSED

FRANCISCI DE VICTORIA

DE IVRE BELLI RELECTIO

BY

HERBERT FRANCIS WRIGHT

A DISSERTATION

Submitted to the Faculty of Letters of the Catholic University of America in Partial Fulfillment of the Requirements for the Degree of Doctor of Philosophy

---

WASHINGTON

PUBLISHED BY THE AUTHOR

1916

PRESS OF GIBSON BROTHERS
WASHINGTON, D. C.

PREFACE.

It is no unusual thing now, since the attention of the whole world has been engaged so long by the War in Europe, to hear propounded on all sides such questions as "May Christians make war?" "Have the people any voice in declaring war?" "When are wars just?" "What may be done in a just war and how far may one proceed against enemies?" And while, at first sight, we may think that these questions, which are suggested by the present war, are new, the fact remains that each and every one of them was discussed and answered by a Spanish moral theologian, Franciscus de Victoria, of the Order of Preachers, in his *De Iure Belli*, published over three hundred and fifty years ago as the fifth of his *Relectiones Theologicæ XII.* For, to use the words of Thomas Alfred Walker, "In Victoria's treatment of these problems, the reader, who is unprepared for the surprises of the literature of the Reformation Age, will be astonished to discover the setting forth of principles which the historian of international practice is wont to represent as entirely modern." Victoria was over four hundred years ahead of his age. He boldly advanced opinions which some of the international lawyers of today are just beginning to find courage to uphold. For instance, "If a war is useful to one province or state, but would draw in its train great injuries to the entire world and to Christianity, I think that such a war is unjust," says Victoria.

Moreover, the canons for waging war properly, as laid down at the end of his *De Iure Belli*, have been formulated

so wisely that they seem easily able to stand the test of time. These canons are three in number and deal respectively with conduct before war is declared, during the war itself, and after the war has been finished. First, granting that a ruler has the authority to wage war, he ought not to seek occasions and causes of war, but ought to have peace with all men. Secondly, granting that war has arisen from just causes, the ruler ought to wage it not for the destruction of the opposing nation, but for the prosecution of his own right and the defence of his own country, and in such a way that peace and security may eventually be obtained. Thirdly, at the end of the war, the victor should use his victory with moderation and Christian modesty and ought to consider himself as a judge between the wronged nation and the nation doing wrong, and not as a prosecutor. It is difficult to imagine how more prudent or more equitable rules could be formulated than those with which Victoria concludes his *De Iure Belli.*

It is precisely because of the importance of this scholar and theologian and the importance of his *De Iure Belli* that it has been deemed expedient to present a critical introduction to and analysis of the text of that work. The utility of such a critique becomes more evident when we consider the untrustworthiness of the texts available. By special permission of the Faculty of Letters, the text and critical apparatus are not published herewith.

CONTENTS.

	Pages.
Preface	3–4
I. Victoria's Life and Writings	7–13
A. The Life of Victoria	7–10
B. The Writings of Victoria	10–13
II. Importance of Victoria's *De Iure Belli*	14–22
III. History of the Text of the *De Iure Belli*	23–38
A. Manuscripts	23–25
B. First Edition	25–28
C. Second Edition	28–34
D. Third Edition	34–37
E. Other Editions	37–38
F. Summary	38
IV. Preparation of Present Text	39–45
Bibliography of Works consulted in the Preparation of this Dissertation	46–49
Index of Authors referred to by Victoria	50–52

FRANCISCI DE VICTORIA DE IVRE BELLI RELECTIO

I. VICTORIA'S LIFE AND WRITINGS.

A. The Life of Victoria.

Franciscus de Victoria[1] was born at Vittoria, the chief city of Alava, in Old Castile about 1480. While still a boy he moved with his parents to Burgos, where he is said to have received a liberal education under excellent teachers and surpassed his fellows in acuteness of mind. There, too, as a young man he entered the Order of St. Dominic, following the example of an older brother, Didacus de Victoria, who was already professed. After completing his novitiate, he spent some years in the usual philosophical and theological studies and was then sent by the Order to the University of

[1]For a detailed account of Victoria's life and works, see Quétif-Echard, *Scriptores ordinis prædicatorum*, vol. II, pp. 128–130 (Paris, 1721); Touron, *Histoire des hommes illustres de l'ordre de S. Dominique*, vol. IV, pp. 55–65 (Paris, 1747); Antonio, *Bibliotheca Hispana nova*, vol. I, pp. 496–497 (Madrid, 1783); Dupin, *Nouvelle bibliothèque des auteurs ecclésiastiques*, vol. XIV, pp. 172–175 (Paris, 1703); Wetzer-Welte, *Kirchenlexikon*, vol. IV, pp. 1837–1839 (Freiburg, 1886); Hurter, *Nomenclator literarius*, vol. II, pp. 1367–1370 (Innsbruck, 1906); and Ehrle, in *Katholik*, vol. II (1884), p. 505 *seqq.*, 518 *seqq.* For the most part I have followed Quétif-Echard for the details of Victoria's life.

For Victoria's place in the history of international law, see Nys, *Le droit de la guerre et les précurseurs de Grotius* (Brussels, 1882); Vanderpol, *Le guerre devant le christianisme* (Paris, 1911); Hallam, *Introduction to the literature of Europe* (London, n. d.); Walker, *A history of the law of nations*, vol. I (Cambridge, 1899); Nys, *Les origines du droit international* (Brussels, 1894); Barthélemy, *Les fondateurs du droit international* (Paris, 1904), pp. 1–36; and Vanderpol, *Le droit de guerre d'après les théologiens et les canonistes du moyen-âge* (Paris, 1911).

Paris in accordance with an ancient custom, which still prevailed, of selecting men of exceptional ability and great promise from each province for higher studies. At Paris, he studied in the *Gymnasium Sanjacobeum* (S. Jacques), the Dominican House of Studies affiliated with the University of Paris, under Peter Crockaert of Brussels, who, having forsaken Nominalism for Thomism and become a Dominican, was then interpreting St. Thomas before large and appreciative audiences. Under this teacher, Victoria made such great progress in theology, that he was recommended by the proper authorities of the college to the General Chapter of the Order held at Genoa in 1513 as worthy of being allowed to proceed to the *examen ad gradus* and was assigned as Lector of the *Sentences* of Peter Lombard in *Studia Generalia* for the year 1516. He must have passed the necessary *examen Lectoratus* satisfactorily, for in the General Chapter held at Naples in 1515 he was approved as Lector and thereupon began to undertake the work of reading for the *Magistratus in S. Theologia*,[1] which he received in 1522.

Returning from Paris to his native country he first began to teach at Valladolid in the Dominican *Gymnasium Sangregorianum*, of which he had been appointed *primarius regens*. On the death of Pablo of Leon (Paulus Legionensis), who had occupied the "catedra prima de teologia" at the University of Salamanca for nearly twenty years (1507–1526), Victoria obtained this place by the unanimous vote of the

[1]For the requisites for this degree among the Dominicans and for the details of organization and administration in Dominican colleges, see *Constitutiones fratrum s. ordinis prædicatorum* (ed. nova, Paris, Poussielgue, 1886), sec. 1047 and 1113 and also sec. 1082 *et seqq.*

University, although he had as opponents in a competitive disputation many men of no little reputation. Here he lectured for twenty years and obtained universal fame and glory as "the restorer of scholastic theology,"[1] because he inaugurated a movement to give to theological science a purer diction and improved literary form and to treat scholastic theology, not in a jejune and uncultivated manner, but in a scholarly and ornate manner, enriching it with every kind of learning, sacred and profane.[2]

While Victoria was making preparations to attend the Council of Trent, which had just (Nov. 19, 1544) been convoked after several fruitless attempts, he was overtaken by ill-health, which caused him to relinquish his professional duties and finally led to his death in 1546.[3]

No little testimony is given to the greatness of this master of wisdom by his famous and learned disciples, Melchior Cano, Domingo Soto, Thomas of Chaves,[4] Martin Azpilcueta (Doctor Navarrus),[5] and many others. Melchior Cano, for example, says that "Spain has received this eminent professor of theology by a singular gift of God,"[6] and he attributes the doctrine, judgment, and eloquence which he possesses

---

[1]Hurter, *op. cit.;* Quétif-Echard, *op. cit.*

[2]Quétif-Echard, vol. II, p. 129*b*; Antonio, vol. I, p. 496.

[3]So Hurter, Antonio, Wetzer-Welte, and Quétif-Echard; yet *Nouvelle Bibliographie Général* says 1549 and Walker (page 214, footnote 2) says: "According to Professor Holland, Victoria died in 1546. Older authorities ascribe his death to 1549."

[4]Chaves, *Summa sacramentorum ecclesiæ, ex doctrina fratris Francisci a Victoria* (Rome, apud Iulium Accoltum, 1567), *ep. ad lectorem.*

[5]Navarrus, *Enchiridion,* I, 35, and 16, 19.

[6]"*Fratrem Franciscum Victoria . . . quem summum theologiæ præceptorem Hispania Dei singulari munere accepit.*" *De locis theologicis* (ed. Serry, 1746), bk. 12, ch. I.

to his careful heed of Victoria's precepts and admonitions. It is such a striking tribute that we append his exact words:

"Nimirum si doctrinam meam approbet quispiam, quæ utinam eruditorum opinione digna esset, si in rerum iudicio prudentiam, quæ utinam esset digna nostro cognomine, si orationis cultum, quem elegantiorem adhibere soleo, quam consueverunt scholastici in libris suis: in hoc sumus docti, prudentes, et facundi, quo virum hunc rerum earum omnium ducem optimum sequimur atque eius præceptis monitisque paremus. . . .

"Quare quantum conniti animo possum, quantum labore contendere, si scribendi hæc labor est potius quam voluptas, tantum faciam, ut efficiam, ne cum omnia a præceptore mihi harum rerum principia suppeditata sint, ipse mihi, præceptori item meo videar defuisse. Huius enim clarissimi viri eruditionem memoriæ prodimus, atque ei, etsi nequaquam parem illius ingenio, at pro nostro tamen studio meritam gratiam debitamque referimus. Quanquam postulo ab iis, qui hæc in manus sument, ut maius quiddam de magistro meo, quam quantum a me exprimi potest, suspicentur."[1]

"Nihil vero de me; de præceptore dicam libentius, qui Academias Hispanas adeo insigniter ingenio suo et doctrina illustravit; adeoque nostris hominibus et spectabiles et amabiles reddidit, ut in eas certatim non confluxerint modo, sed irruperint. Quod si ille Gallis, Germanis, atque Italis scripsisset, quæ erat hominis in disputando perspicuitas, elegantia, et suavitas, non ita nunc apud eas gentes scholæ studia iacerent."[2]

B. The Writings of Victoria.

Victoria is said to have been the first in Spain to recognize the far greater utility of requiring his students to write what he dictated than of requiring them merely to listen to his lectures, a method which had hitherto been customary. Hence it appears that he neglected to publish any of the many treatises which he must have dictated in the twenty

[1] *Ibid.*, 12, 1. [2] *Ibid.*, 12, 5.

years of his professorship. Hence also the reason why those, who were fortunate enough to hear his lectures, were all the more careful in transcribing the words that he dictated. In this way there are attributed to him the following works:

Relectiones Theologicæ XII.
Summa Sacramentorum Ecclesiæ.[1]
A manual for confessors sometimes called *Confesionario*, sometimes *Instruccion y Refugio del Anima*[2].
In Universam Summam Theologiæ Sancti Thomæ Commentaria. Unpublished MS.[3]
Commentaria in IV Lib. Sententiarum. Unpublished MS.[4]

Concerning the title of the *Relectiones Theologicæ XII*, Ompteda[5] and Morhofius[6] erroneously call them *Prælectiones* instead of *Relectiones*, while Simon in his edition (Cologne and Frankfort, 1696) gives the title as *Relectiones Morales*. Simon also gives the number as thirteen and in this is undoubtedly following the Ingolstadt edition of 1580.[7] There is also some discrepancy among authorities as to the exact *relectiones* contained in this work. An-

[1]Morhofius (*loc. cit.*) erroneously calls this *Summa sacrorum ecclesiæ*. I have given the title as it appears in the Rome edition of 1567, mentioned above on page 9, footnote 4.

[2]Latter title given by Didacus de Zuñiga, according to Antonio, *op. cit.*

[3]Mentioned by Boyer at the end of his letter to Valdez which is prefixed to his edition and by later biographers, who, however, do not mention the location. Suarez, *De caritate*, disp. 9, sec. 4, n. 15, and Molina, tr. 4 *de iustitia*, disp. 16, n. 1, cite Victoria's manuscript commentary on the *Secunda Secundæ*, and Victoria himself cites his commentary on *Prima Secundæ* in his *De Indis*.

[4]Mentioned by Boyer at the end of his letter to Valdez which is prefixed to his edition and by later biographers, who, however, do not mention the location.

[5]D. H. L. Ompteda, *Litteratur des Völkerrechts* (Ratisbon, 1785), p. 169.

[6]Daniel Georgius Morhofius, *Polyhistor literarius, philosophicus et practicus* (Ed. 3, Lubeck, 1732), vol. II, I, 14, 41, p. 96.

[7]See the full title of Simon's edition on p. 46.

tonio,[1] whom Hurter[2] apparently followed, erroneously includes *De silentii obligatione* in the *Relectiones Theologicæ XII* and the *Nouvelle Bibliographie Générale* includes not only this, but the *Summa sacramentorum ecclesiæ* also.

The first edition of the *Relectiones* was published at Lyons in 1557 in two volumes, under the title I have given above. The individual *relectiones* were arranged in the two volumes, as follows:

Tomus Primus: *De potestate ecclesiæ, prior et posterior.*
De potestate civili.
De potestate concilii.
De Indis prior.
De Indis posterior, sive de iure belli.
De matrimonio.
Tomus Secundus: *De augmento charitatis.*
De temperantia.
De homicidio.
De simonia.
De magia.
De eo ad quod tenetur veniens ad usum rationis.

These are substantially the same as those given in subsequent editions, with these exceptions. The second edition gives the number as eleven, counting the two *relectiones* on the Indians as one. The fourth edition (Lyons, 1586) puts the number at thirteen, counting the two *relectiones* on the power of the Church as two, and in this is followed apparently by Holland,[3] and avowedly by Walker.[4] Hallam,[5] who saw only the Venetian edition (1626), makes the same

[1] Antonio, *op. cit.*, p. 497.
[2] Hurter, *op. cit.*, p. 1370.
[3] Holland, *Studies in international law* (Oxford, 1898), p. 51.
[4] Walker, *op. cit.*, p. 214.
[5] Hallam, *op. cit.*, p. 314, column 2, note 1.

mistake and accuses Antonio of perhaps never having seen the work because he gives the number as twelve. Yet the two pairs of *relectiones* which cause this difference ought not to be considered in the same light. The first pair is clearly on the same subject and ought to be treated simply as two parts of a single *relectio;* the second deals with two distinctly different subjects, as the very titles themselves indicate, although the second is suggested by the first. Therefore they ought to be considered as two *relectiones*, as in the first edition.

II. IMPORTANCE OF VICTORIA'S DE IVRE BELLI.

I have briefly indicated above the high esteem in which Victoria was held by his pupils. This praise is reechoed by other contemporaries and by later scholars. Jacques Boyer, in the Letter to the Reader which is prefixed to his edition (Lyons, 1557) of Victoria's *Relectiones* says that he not only far surpassed Socrates, but that he left none second to himself as the defender of honest truth.[1] Juan de Canova, the printer of the second (Salamanca, 1565) edition of the *Relectiones*, states that Victoria was so well versed in canon and civil law as well as theology that it is doubtful whether he ought to be praised more as a finished theologian than as a lawyer skilled in both laws.[2] It is in no uncertain terms that Alonso Muñoz, the editor of the same edition, hails him as the restorer of scholastic theology of Spain.[3] This title is also given to Victoria by Bartholomew de Medina (1527-1581), who also says that Victoria so illumined obscure

[1] "*Is enim vir fuit tanta eruditione, tanta religione, tanta denique ingenii dexteritate in tractandis sacris eloquiis, ut non solum Socratem illum umbratilis tantum ac fucatæ philosophiæ authorem longe superaverit, verum etiam sinceræ veritatis antistitem nullum sibi reliquerit secundum.*" *Ep. ad lectorem* (p. 9).

[2] ". . . *Non in pontificio tantum, verum et in Cæsareo iure, tot fecerat progressus, ut non de his solum quæ ad munus Imperatoris, sed et ad pontificatus dignitatem administrandam pertinere possent, nihil intactum reliquisse videatur. Is is est de quo merito dubitare possemus, num potius perfecti Theologi quam iuris utriusque peritissimi nomine decorare debeamus.*" *Ep. nuncupatoria.*

[3] "*Multum debet Hispania tota huic præstantissimo viro, quoniam ipse pluribus nominibus demeritus est, illo præsertim, quod cum theologia apud Hispanos confusanea, pulverulenta, aut potius lutulenta, lacera, pannosa, muta, ac pene elinquis iaceret, huius solius ope claritati, nitori, candorique suo puritati, ac dignitati, venustati, ornatui, et integritati veluti longo postliminio restituta est. Testimonio sunt huius veritatis non modo centuriæ, sed Iliades etiam discipulorum eiusdem, quos schola ipsius quoque versum effudit.*"

passages in St. Thomas that he seemed even to surpass him.[1] Nicholas Cleynaerts (Clenardus, b. 1493 or 1494) pays a great tribute to Victoria's lucid Latin style, when he declares that if Victoria were to apply his mind to writing, the fame of his name would spread throughout the world.[2]

Yet it is not as philosopher or theologian or Latinist that we are concerned with Victoria here, but as one of the founders of international law.[3] It is Franciscus de Victoria, in fact, who first admitted into a classification of law international law in its modern acceptation "*ius inter gentes*," although Richard Zouche is commonly considered by most authorities as the creator of this term.[4] "That which natural reason has established among all nations is called

[1] "*Doctissimus namque Franciscus Victoria, vir præclarus ingenio, eruditione, eloquentia, interpres D. Thomæ in Salmanticensi Universitate, sic floruit, ut inter primos merito sit numerandus; qui non solum abdita D. Thomæ arcana discipulis patefecit, verum tamen eo ordine et dispositione digessit, ut seipsum superasse videatur. Certe ea ratione et methodo doctrinam scholasticam tradidit, ut restaurator divinæ Theologiæ optimo iure habeatur.*" *Expositio in Primam Secundæ Angelici Doctoris D. Thomæ Aquinatis* (Venice, apud Petrum Dehuchinum, 1580), *ep. nuncup.*; cf. also *Expositio in Tertiam D. Thomæ Partem* (ed. 2, Venice, Basa, 1590), *arg. op.*

[2] "(*Dicere solebat*) *neminem se nosse, ne ex iis quidem qui omnem ætatem in Latinis literis trivissent, cuius ipsi tam placerent epistolæ quam Victoriæ, qui si animum aliquando ad scribendum appelleret, orbem universum fama sui nominis occuparet.*" (Quoted by QUÉTIF-ECHARD and ANTONIO.)

[3] Cf. CHARLES PÉRIN, *L'ordre international* (Paris, Lecoffre, 1888), p. 394, note 2. VANDERPOL, *op. cit.*, has shown the development of the law of war in Christian writers from the Fathers of the Church to the scholastic philosophers and theologians and canonists of the fifteenth and sixteenth centuries, adducing numerous extracts from their works. FERNAND DESCHAMPS (*La philosophie scolastique et la guerre*, in *The Dublin Review*, vol. 158, no. 317, April, 1916, pp. 230–258) has treated the last phase of this development, proposing the establishment of a school of Christian public law at Louvain under the direction of Cardinal Mercier. Victoria's importance in the history of the development of the law of war is brought out strikingly by both VANDERPOL and DESCHAMPS.

[4] E. g., HOLLAND, *Studies in international law* (Oxford, 1898), p. 1; but cf. NYS, *Les origines du droit international*, pp. 8 and 11; VANDERPOL, *Le droit de guerre d'après les theologiens et les canonistes du moyen-âge*, p. x.

international law," says Victoria,[1] consciously adapting a statement of Gaius in the *Institutes* of Justinian.[2] I give both statements here in order that the difference may be more strikingly shown:

Quod vero naturalis ratio inter omnes homines constituit, id apud omnes populos peraeque custoditur vocaturque jus gentium, quasi quo jure omnes gentes utuntur. *Inst.*, 1, 2, 1.	Quod naturalis ratio inter omnes gentes constituit vocatur ius gentium. VICTORIA, *De Indis*, 2, 1.

Zouche repeats Gaius' statement, omitting the words *vero* and *populos*, and after some discussion continues, "Law of this latter kind," that is, of commerce and wars between different nations, "is called *'jus inter gentes.'*"[3] Hence the reason why the term is attributed to him. But Victoria's alteration of Gaius' words was intentional. "In his system this law is a real law which is based on sociability, because there is a natural society, there are mutual relations, a communion, a bond between peoples. One nation has the right of entering into relations with another nation to such an extent that the denial of the exercise of this right justifies war. In other words, Victoria saw clearly the interdependence of nations, their reciprocal rights and duties."[4]

---

[1] *De Indis*, 2, 1. [2] *Inst.*, 1, 2, 1.

[3] "*Quod est posterioris generis, Jus inter gentes placet appellare.*" RICHARD ZOUCHE, *Iuris et Iudicii Fecialis, sive Iuris inter Gentes . . . Explicatio.* (Oxford, Hall, 1650) 1, 1, 1.

[4] NYS, *op. cit.*, p. 11, who shows the importance of this point, as does also BARTHÉLEMY, *Les fondateurs du droit international* (Paris, 1904), especially page 7, where he says: "*On peut dire par conséquent que c'est chez Vitoria que l'on trouve pour la première fois le terme* jus inter gentes. *Le terme est remarquable: ce qui l'est encore plus, c'est idée à laquelle il correspond, c'est la notion que présente Vitoria de ce* jus inter gentes, *du lien juridique qu'il établit entre nations, ou plutôt de la société juridique internationale dont il est l'expression.*"

It is Victoria also who was one of the most vigorous opponents of three errors commonly found in extremist writers on civil and canon law who preceded him. These were:

1. Infidels have no right to possess anything and war with them therefore is always just. This was held by Hostiensis, Legnano, and a host of canonists.

2. The Emperor of the Roman Empire is the temporal sovereign of the entire world. Bartolus and his school defended this claim.

3. The Pope is the temporal sovereign of all the earth. This was sustained by Hostiensis, St. Antoninus (Archiepiscopus), Sylvester, and others.

It is not my purpose to give here the history of these errors and Victoria's refutation of them; all of this has been excellently done by Vanderpol in his *Le Droit de Guerre d'après les Théologiens et les Canonistes du Moyen-âge* (pp. 151–189). It will be sufficient simply to state the fact that one of the dreams of the Middle Ages was the reconstitution of the Roman Empire, which was to embrace the entire world, and that errors which arose from attempts to realize this dream were so ably opposed and refuted by Victoria that later writers mention them merely as a memory and as no longer upheld.[1]

But in Victoria's time these were live topics of discussion.[2] After the discovery of the New World, the conquerors wished to justify their seizure of lands and their right to use arms

[1]Cf. VANDERPOL, *op. cit.*, p. 152: "*Sans doute de son temps* (*i. e.*, of Suarez), *elles n'existaient plus qu'à l'état de souvenir, et n'étaient plus guère soutenues.*"

[2]NYS, *op. cit.*, pp. 127–128, 152–154.

against the natives who refused to accept their domination. It is at this time that Victoria delivered his lecture *De Indis*,[1] in which he reviews in succession the false and true titles alleged by the conquerors. The frankness, with which he rendered judgments without fear or favor of the Catholic sovereigns of Spain, who had a very keen interest in the subject, is well worth noting. He stands out among the Spaniards and Portuguese as the defender of the proposition that infidels can not be despoiled of civil power or sovereignty simply because they are infidels.[2] He makes his position strikingly clear by declaring that the Spaniards have no more right over the Indians than they would have had over the Spaniards if they had come to Spain.[3] Another instance of his fearlessness and lack of bias is the judgment he rendered concerning the contemplated divorce of Henry VIII from Catharine of Aragon.[4]

It is no wonder, then, that Hugo Grotius in his epoch-making work, *De jure belli ac pacis*, calls Victoria a "theologian of sane judgment."[5] In the prolegomena to this same work, Grotius acknowledges that he has consulted Victoria among other theologians and jurisconsults. "I have seen," he says, "special books on the law of war, some written by theologians, such as Franciscus de Victoria, Henry of Gorcum, Wilhelmus Matthæi, some by jurisconsults, as Ioannes Lopez, Franciscus Arias, Ioannes de Legnano, Martin of Lodi; but all of these have spoken very

[1]This is *Relectio IV* of the *Relectiones Theologicæ XII* (Lyons, 1557).
[2]Nys, *op. cit.*, pp. 368–369.
[3]The Indian question is treated in his *De Indis* (*Relectio IV*) and *De iure belli* (*Relectio V*).
[4]This is treated in his *De matrimonio* (*Relectio VI*).
[5]Grotius, *De jure belli ac pacis*, III, 12, 1.

briefly upon a subject that is exceedingly fruitful, and many in such a way that they commingled and confused without order the rulings of natural law, divine law, law of nations, civil law and canon law."[1] But neither of these criticisms[2] ought to be imputed to Victoria as a reason for blame because in the first place, although it is true that Victoria's lecture *De iure belli* is exceedingly brief, it is ample for the purpose for which it was intended by the author, who had no intention of writing a complete treatise on the right of war, but merely wished to supplement his lecture *De Indis*, as he himself states in the beginning of his *De iure belli*[3] and as the complete title[4] of the work itself attests; and in the second place, his *De iure belli* itself is so logical and orderly that it merits well the praise that has been accorded to it[5] and to its author.[6]

---

[1] *Vidi & speciales libros de belli jure partim a Theologis scriptos, ut à Francisco Victoria, Henrico Gorichemo, Wilhelmo Matthæi, partim à doctoribus juris, ut Ioanne Lupo, Francisco Ario, Ioanne de Lignano, Martino Laudensi; sed hi omnes de uberrimo argumento paucissima dixerunt, & ita plerique, ut sine ordine quæ naturalis sunt juris, quæ divini, quæ gentium, quæ civilis, quæ ex canonibus veniunt, permiscerent atque confunderent."*

[2] Cf. Barthélemy, *op. cit.*, p. 22, footnote 1: "*Grotius, qui a donné à son traité les développements que l'on sait, montre quelque dédain pour cette leçon* de jure belli. . . . *La suite montrera, nous l'esperons, que, dans ce dédain, il y a beaucoup d'injustice.*"

[3] ". . . *Visum est de iure belli brevem disputationem habere, ut illa* (*i. e., prior*) *relectio absolutior videatur.*"

[4] *De Indis, sive de iure belli Hispanorum in barbaros.*

[5] "*Les leçons* De Indis *et* De jure belli Hispanorum in barbaros *sont de véritables chefs-d'œuvre de méthode et de science. Un écrivain anglais a comparé un jour les grands travaux de Suarez aux belles créations architecturales des Arabes; ici, nous nous trouvons aussi devant un véritable monument, où l'on ne sait ce qu'il faut le plus admirer la solidité de l'œuvre ou bien l'élégance avec laquelle elle a été exécutée.*" Nys, *op. cit.*, pp. 128 and 129.

[6] "*C'était un maître incomparable pour la clarté et la lucidité du raisonnement,*" etc., Nys, *op. cit.*, p. 128.

A careful scrutiny of Grotius' chief work, *De jure belli ac pacis*, shows that he agrees with nearly every proposition[1] laid down in Victoria's *De iure belli*, although he does not always cite him. The following is an instance wherein Grotius agrees with Victoria on a very important point, yet does not cite him:

Unica est et sola causa iusta inferendi bellum, iniuria illata. VICTORIA, *De iure belli*, 13.	Causa justa belli suscipiendi nulla esse alia potest, nisi injuria. GROTIUS, *De jure belli ac pacis*, II, 1, 1.

Yet even where Grotius cites Victoria's *De iure belli*, and he does this at least forty-four times, he does not use Victoria's exact words. The nearest he approaches to doing this is in the following passage:

Intolerabile esset quod, si Galli agerent prædas in pecora Hispanorum vel incenderent pagum unum, quod liceret occupare totum regnum Francorum. VICTORIA, *De iure belli*, 56.	Nam, ut recte notat sani judicii Theologus, ut propter pecora abacta aut domos aliquas incensas totum regnum vastetur aequitas non fert. GROTIUS, III, 12, 1.

There is one passage, however, in which Grotius quotes the exact words found in Victoria, but they are not Victoria's own words, but the words of Sylvester quoted by Victoria.

Ex quo infertur quod capta in bello iusto non compensantur cum debito principali. VICTORIA, *De iure belli*, 51.	Et sic accipiendum est quod scribunt Theologi quidam, capta in bello non compensari cum debito principali. GROTIUS, *op. cit.*, III, 13, 3.

[1]GROTIUS disagrees twice; first he denies (*De jure belli ac pacis*, II, 1, 10) that one can slay an aggressor from whom no further danger is to be expected, merely to avoid disgrace (VICTORIA, *De iure belli*, 5); secondly, he denies (*De jure belli ac pacis*, I, 3, 4) the right of making war to citizens whose king has been neglectful in vindicating their wrongs (VICTORIA, *De iure belli*, 9).

VICTORIA quotes Sylvester, *bellum* 1, 9, 2 (words given above) and cites: Bartolus in l. *si quid in bello.*	GROTIUS cites in margin: Sylv. verb. *bellum* n. 10; Vict. n. 51; Bart. in l. *si quid bello*, D. de capt.

Grotius also quotes other *relectiones* of Victoria in this as well as his other works, though of necessity not so frequently, and sometimes he follows Victoria without mentioning him. For instance, in his *Mare liberum*, which is a chapter of his *De jure prædæ*, in discussing Portuguese titles over the Indians of the East, Grotius uses arguments which recall the position of Victoria with regard to Spanish titles over the Indians of the West.[1] Nor is this all. Conring goes even so far as to say that, if Grotius "excelled in philosophy and produced the incomparable book, *De jure belli ac pacis*, he owed it to his reading of the Spanish jurists, Ferdinand Vasquez and Diego Covarruvias, who had in their turn made use of the work of their master, Franciscus a Victoria."[2] In fact, Grotius' direct indebtedness to Victoria may be greater than has hitherto been recognized.[3] Until recent years we find scant credit given to any Catholic writers in the histories of international law. "Ever since the Reformation," writes Lorimer,[4] "the prejudices of Protestants against Roman Catholics have been so vehement as to deprive them of the power of forming a dispassionate opinion of their works, even if they had been acquainted with them, which they rarely were."

---

[1] WALKER, pp. 278–280.

[2] Quoted by NYS in an edition of two of Victoria's *Relectiones*, soon to be published by the Carnegie Institution of Washington.

[3] "*Sunt qui eo usum fuisse Grotium in multis autumant, quanquam raro ille allegetur,*" says MORHOFIUS, *Polyhistor*, vol. II, I, 14, 41, p. 96.

[4] *The institutes of the law of nations* (1883), vol. I, p. 71.

That Victoria has been able to survive this state of affairs, therefore, may well mean more than is apparent on the surface and weight is added to this view by the fact that Victoria's *Relectiones*[1] went through at least ten editions, six of them appearing within fifty years. Yet in spite of these ten editions, Hallam[2] states that it "is a book of remarkable scarcity" and that some of those who since the time of Grotius have mentioned Victoria's writings, lament that they are not to be met with. In fact, it was scarce even in 1696, when Simon published his edition.[3] It is this, in addition to the fact that he dictated his lectures and never printed them himself, that explains why this author, who enjoyed such great fame among his contemporaries, until recent years has been little known and rarely quoted.

---

[1] "It is this collection that establishes the claim of this learned Navarrese to rank among the foremost of the forerunners of Grotius." WALKER, p. 215.

[2] P. 314; cf. HURTER, *op. cit.*, and also VANDERPOL, *Le droit de guerre d'après les théologiens*, etc., p. X: "*Son ouvrage . . . est aujourd'hui presque introuvable.*"

[3] See the full title of SIMON's edition on p. 46.

III. HISTORY OF THE TEXT OF THE DE IVRE BELLI.

The *De iure belli* is only a portion of the *Relectiones Theologicæ XII*, and constitutes the second of two studies on the Indians of the New World, the first of which is entitled, "*De Indis insulanis*" in the first edition, "*De Indis recenter inventis*" in the second edition, "*De Indis noviter inventis*" in the third and subsequent editions; the second, the one with which we are concerned, is entitled "*De Indis, sive de iure belli Hispanorum in barbaros*" in all editions[1] and by subsequent writers is quoted simply as *De iure belli.*

A. Manuscripts.

Of this work, it is probable that there are no manuscript copies extant. At least, to the editor of the third printed edition (Ingolstadt, 1580), none was available, for he fails to mention any, and, moreover, states that he had corrected the first edition (Lyons, 1557) by the second edition (Salamanca, 1565), except where this was manifestly wrong, in which case he took counsel with eminent theologians and philosophers. If a manuscript copy of the *Relectiones* had been extant, it would probably have been in some Spanish or French library. But Nicholas Antonio, a Spaniard, whose life of Victoria appeared in 1783, makes no mention of

[1]Nys, *Le droit de la guerre et les précurseurs de Grotius* (Brussels, 1882), p. 168, gives this title to the first of the two and calls the second "*de bello*," but this is clearly a mistake. He himself quotes the second as "*de jure belli*" on p. 81, note 3, and gives the correct titles of both in a later work, *Les origines du droit international*, (Brussels, 1894), p. 128.

any, nor is a manuscript copy mentioned by Victoria's French biographers, Dupin (1703) and Quétif-Echard (1721). Surely, a manuscript would have been mentioned by one of his later biographers, Wetzer-Welte (1886) and Hurter (1906), if any had been discovered in the intervening years.

Yet even if there be extant somewhere in obscurity a manuscript of Victoria's *Relectiones*, it would not materially affect the text as transmitted in the first or second editions, as will appear from the rest of this introduction. To secure a complete understanding of this assertion, it is necessary, first to define the word *relectio*. At Salamanca it meant a kind of theological exercise not very unlike those disputations which were in use in the most celebrated universities of the Middle Ages under the name of *quæstiones quodlibeticæ*. Those *quæstiones*, which seemed to be the more difficult and more useful of all that had been discussed in the daily prelections of an entire year, were reconsidered in *relectiones* in the public assembly of learned men by the same doctor, in order that they might be much more accurately decided than theretofore and receive as it were the finishing touches.[1]

The manuscripts, from which the first and second editions were edited, were written by Victoria's students from dictation, probably when the lectures were first delivered, because it is not likely, though certainly possible, that the lectures would be dictated a second time in the public assembly at the end of the year. At any rate, there would be as many manuscripts of the *Relectiones* as there were auditors, and, since none of these manuscripts belonged to the author, the

[1]See editor's preface to Ingolstadt edition of 1580.

authority of the individual manuscript would be considerably lessened, for it is the consensus of the manuscripts that would give what the author probably dictated. This consensus is represented by the first and second editions and would not, in all probability, be disturbed by a single manuscript. Moreover, a single manuscript would be subject to all the errors attributable to writing from dictation. These reasons will become clearer from the criticisms of the three editions which I have been able to consult.

B. First Edition.

A little over ten years after Victoria's death, "par grace et priuilege du Roy est permis à Iacques Boyer libraire de Salamanca, imprimer ou faire imprimer vne fois ou plusieurs ce present liure intitule, Reuerēdiss. Patris Fratris Francisci de Victoria, ordinis Prædicatorum, sacræ Theologiæ in Salmanticensi Academia quondam primarij Professoris Relectiões duodecim Theologicæ." This, the first edition of the *Relectiones*, bears the imprint of Lyons, 1557, and was prepared for the following reasons, as Boyer relates in his dedicatory letter to the Inquisitor, Ferdinand Valdez.

After mentioning the fact that the works of the early Fathers had been "truncati, confusi, obscuri, perplexi, ac denique alienis inventis conspurcati," Boyer says that this same fate befell Victoria's writings. "For one person had mutilated them by making an unhappy transcript, another had read them incorrectly, a third by suppressing Victoria's name had usurped a good and large portion of the work, and many had placed the comments of their foolish mind in the

midst of his scrupulous doctrine and singular erudition not otherwise than a counterfeit jewel might be set in gold; and the glory that is due the author certain scoundrels had claimed for themselves with impunity."[1] In these words he gives the reasons for the necessity of printing for the first time a work, which its own author had never deemed it necessary to print. Of course, we would not consider it cause for blame for the student to adapt the doctrine of his master to suit himself, provided he does not attribute the adaptation to his master, but it is a pity that Boyer did not give more definite information and mention the names of the culprits guilty of the crimes he charged. This would have been extremely interesting and useful in showing the great influence of Victoria and would have made possible a more detailed critique of Boyer's methods.

The value to be attached to Boyer's edition may be deduced from the following facts. Boyer was a contemporary of Victoria and was personally acquainted with him. We would have supposed this, even if he had not said it himself,[2] from the fact that he was librarian at Salamanca.[3] Consequently he had first-hand knowledge of Victoria's doctrine. His text was carefully prepared from the manuscript copies of Victoria's auditors, men who wrote down Victoria's lectures as he dictated them. In fact he feels so sure of the accuracy

[1] "*Alius transcribendo misere dilaceravit, alius corrupte recitavit, alius suppresso viri nomine bonam magnamque operis partem usurpavit, plures denique mentis insanæ commenta, viri illius religiosissimi doctrina ac singulari eruditione, non secus ac gemmam adulterinam auro contexerunt; debitamque authori gloriam sceleratissimi quique impune sibi vendicaverunt.*"

[2] "*Cuius ego memoria maxime recreor,*" says Boyer, *Ep. ad Valdesium*, prefixed to his edition.

[3] *Supra*, p. 25.

of his edition that he believes those who have heard Victoria's lectures will vouch for it and he even invites comparison of his edition with the manuscripts. For the convenience of the reader, Boyer prefixes a summary to each *relectio* and adds marginal references to some of the passages of Holy Scripture quoted by Victoria.[1]

On the other hand, the text of Boyer is not entirely free from mistakes and has so many misprints that it altogether merits the condemnation heaped upon it by Muñoz and every writer since. These errors are numerous and of many kinds. I shall not give here examples of misprints, because they are so numerous and can easily be noticed by the casual reader. I have grouped a few examples, chosen at random, of other errors under several headings.[2]

Substitutions.—B has *proprios redditus* for *publicos redditus*, 12; *tutat* for *vertat*, 17.

Omissions.—B has omitted the words in parentheses in (*non*) *maiorem authoritatem habet princeps*, 13; *ad vindicandum* (*iniuriam*), 13.

Failure to extend abbreviations.—B fails to extend *nota* to *notandum*, procem.; *quaeque* to *quæ quæstio*, 10; *versant* to *versantur*, 36.

---

[1]"*Quantam vero operam dederim ut totum opus tersum ac plane purum in lucem eruerem, iis licebit æstimare, qui ipsum authorem aliquando dicentem audiverunt; et iis, qui paulo accuratius hanc editionem considerarint atque cum privatis scriptis contulerint. Adiecimus præterea, ut et nihil ornamenti desiderari posset et lectorem labore non mediocri sublevaremus, Relectionum singularum* ἀνακεφαλαίωσιν *quandam, additionesque locorum sacræ scripturæ indices.*" Boyer, *Ep. ad Valdesium*, prefixed to his edition.

[2]All of the examples given are from the *De iure belli;* it is probable that similar errors are to be found in the other *relectiones*. The number is the number of the proposition of the *De iure belli* in which the passage is found. Procem. (= procemium) indicates that part of the *De iure belli* which precedes proposition 1. *B* = Boyer's edition.

Incorrect extension of abbreviations.—*B* has *secundo libro contra Manichæ.* for *lib. cont. Secund. Manichæ.*, 1; *scilicet Tho.* for *S. Tho.*, 13; *Mediolanenses* for some abbreviation of *Mediolani*, 33.

Lack of proper proof-reading.—*B* has *in de fensione sui*, 15; *inciviliter* (=*vincibiliter*), 20; *victores* (=*lictores*), 22; *iusticia*, 30; *iuvetur* (=*iubetur*), 31. These may have been caused by the *reading* of the copy to the compositor.

C. Second Edition.

It is no wonder, then, that, although Boyer had a ten-year copyright,[1] a second edition was published by Alonso Muñoz, O. P., and printed by Juan de Canova at Salamanca in 1565. He also secured a ten-year copyright, as is clear from the letter in the vernacular which is prefixed to his edition. This letter is followed by a dedicatory letter of Muñoz to the "Serenissimo atque Augustissimo Hispaniarum Principe Carolo Philippo regis earundem filio," which is very complimentary to Victoria.

In his letter to the reader, Muñoz explains how he came to publish a second edition of Victoria's *Relectiones*. He was at Salamanca helping Domingo Soto with the correction of proof of the fourth book of the *Sentences*, then in press, when "there appeared a little book with a most imposing title, but containing countless horrible misprints, absurdities which were disgraceful and insulting to the author as well as the whole theological school. It made one aghast to behold in

[1]Extrait du Privilege du Roy, editio princeps, p. 3.

the tiny body of so small a book so unbelievable an offscouring of close-packed blunders, and ashamed and sorrowful that rascals should seem to have such license towards the masterpieces of most distinguished men, and with impunity, too. This was the title of the book: 'The *Relectiones* of the Reverend Father, Brother Franciscus de Victoria, of the Order of Preachers, late Primary Professor of Sacred Theology in the University of Salamanca.' You observe how fair and full of promise the inscription is; and indeed in Pliny's words, its bail could be forfeited."[1]

Having found numerous and serious mistakes, Muñoz brought the matter to the attention of Domingo Soto and Melchior Cano, two of Victoria's former students, who prompted him to correct the printed book "according to the most exact copies."[2] Later on the administer of the Holy Inquisition in the matter of examining books joined Domingo Soto in urging Muñoz to undertake the work. "Although I was aware," says Muñoz, "how unpleasant a business it was, how hard and wearisome the affair, how inglorious the labor of correcting and restoring the monuments of others especially those so ulcerous, so altogether

[1] *"Cum Salmanticæ agerem, auxiliaremque navarem operam fratri Dominico Soto in emaculanda impressione quarti Sententiarum, qui tunc excudebatur (Candide Lector), libellus quidam prodiit speciosissimo titulo, innumerabiles portentosasque mendas, deliramenta pudenda, atque contumeliosa autori tum etiam toti theologorum scholæ continens. Stupori erat in tantillo libelli corpusculo tam incredibilem vitiorum congestam intueri colluviem, pudori atque dolori quod visebatur tantum licere nebulonibus in eximias clarissimorum virorum lucubrationes idque impune. Titulus libri is erat 'Relectiones R. P. Fratris Francisci Victoriæ ordinis prædicatorum Sacræ Theologiæ in Salmanticensi academia quondam primarii professoris.' Vides inscriptionem pulcherrimam et undecumque pollicitabundam atque adeo propter quam, ut Plinius dixit, vadimonium deseri possit."*

[2] *Ad verissima exemplaria.*

deranged, so piteously (I had almost said) and hostilely regarded, as these were, yet, moved by the authority of my preceptors as well as induced by love of a very fine work and of its author, Victoria, who was also my dearest of teachers, I put my shoulders under a burden which I have loved."[1]

In preparing his text, Muñoz pursued the following plan.[2] He persuaded a fellow-religious, one Petrus ab Añaya, to read aloud the text of Boyer, while he himself ran over in his mind simultaneously the manuscript copies. When any discrepancy occurred, they halted and supplied what was wanting or corrected what was wrong. Doubtful matters were settled by consulting many manuscripts, for there was an abundance of them, and when these failed, by having recourse to the sources used by the author. All of this was

---

[1] "*Et quamvis nossem, quam sit inamœnum negotium, quam dura ac morosa res, quam inglorius labor, corrigere atque instaurare monumenta aliena, præsertim tam ulcerosa, tam turbata undique, tam misere, pœnæ* (sic) *dixerim et hostiliter habita, ut hæc ipsa erant; tamen autoritate præcipientium motus, tum etiam amore pulcherrimi operis, et illustris autoris eiusdemque charissimi mihi præceptoris mei Victoriæ adductus, humeros amato oneri supposui.*"

[2] "*Rem aggredior assumpto mihi sotio* (sic) *F. Petro ab Añaya, viro nobili et religioso atque amicissimo, qui mihi prælegebat impressum illum libellum, ego vero exemplaria mihi ipsi simul mente præcurrebam, legentis vestigia insequens, et cum quid occurrebat difficultatis vel erroris sistebamus ambo gradum et reponebatur quod deerat, aut corrigebatur quod erat vitiatum. Quod si quando res erat dubia, adhibitis pluribus exemplaribus manuscriptis, suppetebat enim copia, lis illa componebatur. Si vero res erat quæ nullis talibus exemplaribus adductis, utpote vitiatis et ipsis, posset transigi, ad ipsos fontes recurrebam, unde ipse autor hauserat sive essent divini libri, sive ecclesiæ vel pontificum decreta, sive antiqui patres, sive sententiarii theologi, sive philosophi, sive historici, sive quicunque alii autores, et sic evidens fiebat germana lectio restituenda. Hunc ipsum laborem secundo assumpsi a capite usque ad calcem libelli, ac tertio veluti sepositam ad tempus picturam revisi, et denique iam ipsum opus tibi, perhumane lector, tradere audeo, frœtus* (sic) *tuo candore.*"

done a second time and a third time, so that the editor finally gives the work to the reader with great confidence.[1]

But the criticism which Muñoz so vigorously directs against Boyer's edition can very justly be applied to his own. While Muñoz has corrected many mistakes of the first edition, he has not corrected all of them, and, moreover, falls into errors of his own.

The copy which Muñoz sent to the printer was Boyer's edition corrected from the manuscripts by reading aloud. One would suppose that this method of preparing copy would cause errors, and it may be due to this that certain mistakes in *B* have remained uncorrected in *M*.[2] At any rate there are errors in *M* which seem to indicate that the copy was read to the compositor.[3] For instance, *M* has *cedes* for *cædes*, 14; *pœnes* for *penes*, 19; *pœna* for *pœna*, 58.

Another source of error was the correction of *B* according to the authors quoted or cited by Victoria (cf., *e. g.*, *qui iuste pugnavit*, 51, where the verb is made to conform to Sylvester's words). First of all, the principle underlying this procedure is false, because it is by no means evident that Victoria quoted authorities *ad litteram*. In fact, he often adapts a quotation, using only some of the exact words (cf., *e. g.*, a long

[1] "*Fruere igitur fœliciter* (sic) *his, quæ tibi nostris vigiliis et laboribus paravimus, quibus factum est* (*absit verbo invidia*), *ut pro luthulento antea opere, ne dicam luteo, tersum nitidumque habeas atque undique aureum et splendidum, id quod facile experimento comperies, si quacunque liber apertus fuerit conferre volueris et perpendere, quid distet noster hic, quem tibi tradimus, ab illo, qui correctus est a nobis, quem videlicet Iacobus Boyer excussit Lugduni, Anno domini, 1557. Ante quem nullus erat impressus, neque postea ausi sunt illi Tipographi ipsum excudere timentes hanc nostram, quantula eacumque* (sic) *est, diligentiam, quam non ignorant.*"

[2] Cf. *infra*, p. 32; *M* = Muñoz's edition.

[3] Cf. *supra*, p. 28.

passage from Sylvester in 51). Moreover, Muñoz does not always act according to the principle which he enunciates (cf., *e. g.*, *mortalium*, 6, which he has omitted).

In spite of Muñoz's boasted carefulness in correcting the errors of *B*, many of these errors remain uncorrected (cf., *e. g.*, *secundo libro contra Manichæ.* (=*lib. cont. Secund. Manichæ.*), 1; *sciri: iure videtur* (=*sciri de iure, videtur*), 28; *indubio*, 30; *quod culpatur* (=*quid culpatur*), 31; *non dum*, 33; *indiferenter*, 39; *dificultas*, 45). Of course, many of these uncorrected errors are purely printer's errors, and might easily have passed unnoticed when read aloud, but I mention them here to show what value is to be attached to Muñoz's vaunted triple comparison. Besides, *M* has also not a few misprints which are its own. Cf., *e. g.*, *talli* (=*tali*), 30; *indinatus* (=*indignatus*), 38.

But one of the most striking differences between *B* and *M* is to be found in the substitutions and additions made by Muñoz. These may have been made for several reasons.

First, Muñoz may have seen some manuscripts which Boyer did not see; but, since it is more likely that Boyer saw some that Muñoz did not see, seeing that he published his edition nearly ten years nearer the time at which the *Relectiones* were delivered, we can not argue with any certainty from this reason.

Secondly, Muñoz, in order to avoid a fancied ambiguity, may have deliberately made additions at the suggestion of the administer of the Holy Inquisition, who had suggested the work to Muñoz and had probably had some share in directing it (cf., *e. g.*, *in causa matrimoniali* (*in re dubia*

adds *M*) *non tenetur cedere*, 30; (*mortaliter loquendo* adds *M*) *non possit*, 31.

Thirdly, it is not at all unlikely that Muñoz and his collaborator, being members of the same order as the author, desired nothing to be published under his name that in their opinion seemed illogical, incomplete or inelegant, or likely in any other way to cast reflection upon the author. This might account for such changes as the following: *non esset respublica perfecta* (*B* has *non videtur habere Rempublicam perfectam*, which is the more difficult reading), 9; *ita gladio uti* (*B* has *ira gladii uti*), 13; *supra extraneos quam* (*supra* adds *M*) *suos*, 13; *præciperet* (*B* has *præceperit*, which is defensible), 13; *parandam* (*B* has *pariendam*, which is the more difficult reading), 18 (cf. 48); *habeat* (*B* has *habet*), 19; *profligatis* (*B* has *profugatis*), 19; *oriuntur* (*B* has *supersunt*), 20; *per accidens* (*B* has *Christianis*), 36. There is no doubt that the readings adopted by *M* in these passages are much more logical and much more Ciceronian than those of *B*.

Fourthly, certain additions which *M* made, perhaps following some of the manuscripts, may have been caused by the method, used by Victoria, of dictating his lectures. Every professor, lecturing to a class, often stops to render the same thought in other words, not intending the repetition to be a part of his formal lecture, but merely explaining something in other words while his auditors are writing down what he has said first. It may well have happened that some of Victoria's students wrote down some repetitions of this sort, not thinking that they might not have been part of the dictation. While it is true that Boyer also might

have incorporated some of these repetitions in his text (*e. g.*, a *quod* is repeated, when a subordinate clause intervenes between it and its verb, 27; but cf. *infra*, p. 44), I have not been able to find a single instance which I could assert with any degree of certainty. I have, however, found several such instances in *M*, though I can not allege these with absolute certainty. Cf., *e. g.*, *sine fraude* (*et dolo* adds *M*), 18; *ne* (*bonis et* inserts *M*) *innocentibus noceant*, 19; *nec clericos* (*nec religiosos* adds *M*), 36.

D. Third Edition.

Fifteen years after the publication of the Salamanca edition there appeared at Ingolstadt[1] another edition (1580) which Hurter terms good[2] and which all the later editions follow. Nothing is known of the editor of this edition other than that he was "one of the Doctors of Sacred Theology in Ingolstadt." In his letter "to the Christian reader," he tells us that there are three points which he wishes to emphasize: (1) the amount of labor and toil expended by him in preparing the edition, (2) the character and greatness of the author of the *Relectiones*, and (3) the advantage and profit which the perusal of them will bring "even to Germans, who seem to be somewhat strange to the gymnastic and scholastic form of discussion therein employed."

In connection with the first point, the editor quotes parts of the letter, which Muñoz had prefixed to his edition, and then continues: "But I do not know by what ill-chance it has

[1] I have not seen a copy of this edition. The information I have given concerning it has been drawn from a letter which Simon prefixes to his edition and which purports to be a copy of the one prefixed to the Ingolstadt edition.

[2] Vol. II, p. 1369.

happened that into this Salamanca edition, so clean, so clear, so gilded, have crept blunders and faults neither few nor trivial. It labors at times under the same faults as the Lyons edition; sometimes under faults of its own, which needs must be corrected either by reference to the Lyons edition or in some other way."[1] We have already shown that this criticism of *M* was justified. It remains now to show the faults of his own method.

The text of the Ingolstadt edition was prepared in the following manner. The editor and his associate made a careful comparison (probably, by reading aloud) of *B* and *M*, making corrections in a copy of *B*, which was to be sent to the printer, from a copy of *M*, wherever this was not evidently at fault. When a trivial mistake was found in *M*, the editor relied on his own judgment, but whenever a serious error was found in *M*, he consulted skilled theologians and philosophers, in order that by weighing all the words and opinions of the author found in both editions he might understand the mind of the author from the common judgment of many. Sometimes, even after following this plan, he could discover no method of restoring a corrupt passage.[2]

---

[1] "*Sed nescio quonam acciderit casu, ut in hanc Salmanticensem editionem tam tersam, tam nitidam, tam auream, nec pauca nec levia menda vitiaque obrepserint. Laborat nonnunquam eisdem vitiis quibus Lugdunensis, nonnunquam propriis, quæ vel ex Lugdunensi vel alia ratione aliqua corrigi fuerit necessum.*"

[2] "*Ipse et prudens socius, quem assumpseram, utrumque codicem contulimus accuratissime et Lugdunensem, qui typographo tradendus erat, ex Salmanticensi, ubicumque hoc nullum habuisset apertum mendum, pro eo ac potuimus, correximus. Vbi vero grave et apertum vitium in Salmanticensi occurrit (nam in levioribus mendis tollendis meo iudicio putavi standum) theologos et philosophos peritissimos consului, ut communi multorum iudicio perpensis in utroque exemplari omnibus et verbis et sententiis autoris, quæ ad eius intelligendam mentem facere viderentur, vitium corrigeretur. Accidit nonnunquam, ut omnes simul corrupti alicuius loci restituendi vix rationem aut modum ullum inveniremus.*"

From the above, it is clear that the editor of the Ingolstadt edition had at his command the same materials as I have used, namely, *B* and *M*, and it is true that he has made some good emendations (cf., *e. g.*, *gerit vices et authoritatem*, 6, where *B* has both nouns in the plural and *M* has both in the singular; *sciri de iure, videtur*, 28, where *B* and *M* have *sciri: iure videtur*). Nevertheless, his text contains the self-same kinds of errors with which he chides the editors of *B* and *M*. I shall give a few representative examples of each of several classes of errors, some intended to improve the text, some altogether unintentional. These examples are taken from Simon's edition (Cologne, 1696)[1] which professes to be a copy of the Ingolstadt edition. Some of them, therefore, and especially misprints, may belong only to the Cologne edition, but it is not likely that Simon would intentionally reject readings he found in the Ingolstadt edition for something incorrect, and even if he had, he would not have done this often.

Additions.—*S* has *notandum est*, procem., where *B* has *nota* and *M* has *notandum; S* has *Psal. 18*, 1, where *B* and *M* have *in Psal.* and the passage referred to is in reality in Psal. 81.

Omissions.—*S* has omitted *et secundo libro contra Manichæ. et*, 1, entirely, probably not understanding how the mistake in these words was to be rectified.[2] *S* has omitted the words in parentheses in the following: (*vel*) *vindicare*, 1; (*de*) *manu*, 1; (*ad*) *resarciendum impensam*, 17; *sive nocentes* (*sive innocentes*), 42.

[1] *S* = Simon's edition; *I* = Ingolstadt edition. [2] Cf. *infra*, p. 41.

Substitutions.—*S* has *naturali* for *naturæ*, 1; *deterrerentur* for *deterreantur*, 1; *motu* for *metu*, 1; *nulla fide* for *mala fide*, 22; *possessione* for *possessioni*, 30.

Inversion.—*S* contains at least one example of inversion: *se per* for *per se*, 35.

Misprints.—*S* has *Turces* (= *Turcas*), proœm.; *in quam*, 1; *liberare* (= *liberate*), 1; *male factores*, 1; *omina* (= *omnia*), 17; *pellum* (= *bellum*), 17; *paret* (= *parte*), 32; *sequutas* (= *sequutus*), 33; *iniutitiæ* and *Amprosio*, 46; *delectum* (= *delictum*), 47. These may have been caused partly by the reading of the copy to the compositor by a German reader and may not have appeared in *I* at all.

The examples given above are by no means exhaustive; they were selected at random just to illustrate, here as also in the case of *B* and *M*, that the editions are not sufficient to be trusted.

E. Other Editions.

The other editions of the *Relectiones* that followed the Ingolstadt edition are professedly based upon it and therefore need not enter into this discussion. In this number are included the editions of Lyons (1586[1] and 1587[2]), Antwerp (1604),[3] Venice (1626),[4] Salamanca (1680), Cologne and

[1]This is the edition used by Walker, *op. cit.*, p. 214: "*Relectiones theologicæ tredecim partibus per varias sectiones in duos libros divisæ. Authore R. P. F. Francisco a Victoria ordinis prædicatorum S. S. Theologiæ Salmanticensis Academiæ in primaria quondam cathedra professore eximio et incomparabili. Lugd.* MDLXXXVI."

[2]Barthélemy says that a copy of this edition is to be found in the Bibliothèque Nationale.

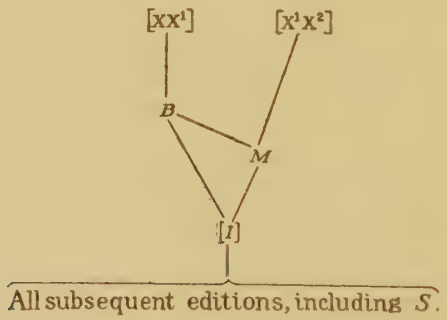
[3]This is the edition used by Schroeder in the *Catholic Encyclopedia.*

[4]This is the edition used by Hallam, who says (p. 314) that this is probably the ast.

Frankfort (1696),[1] and Madrid (1755). Of these, the only one which I have been able to consult is the Cologne edition, which was published in 1696 by Johann Georg Simon, J. U. D., Professor at the University of Halle. He has prefixed to his edition the letter to the reader which appeared in the Ingolstadt edition.[2]

F. Summary.

To sum up, we have shown that *B* was edited from unknown manuscripts, some of which (x) may not have been seen by the editor of *M;* that *M* was edited from *B* and from unknown manuscripts, some of which (x^2) may not have been seen by the editor of *B;* that the third edition (*I* = Ingolstadt, 1580) was edited from *B* and *M* without manuscripts; and that all subsequent editions were edited from *I*. This provenance is graphically shown by the following diagram:



[1]Some authorities, among whom is Barthélemy, give the date of this edition as 1686, but see the full title, which I have given verbatim on p. 46.

[2]Cf. *supra*, p. 35.

IV. PREPARATION OF PRESENT TEXT.

In preparing my text, I have made a careful collation of *B*,[1] *M*,[2] and *S*,[3] using a typewritten copy of *S* and indicating thereon in different colored inks the variant readings of *B* and *M*. For the most part, I have retained the readings of *B*, unless they were unmistakably incorrect. The reasons for this procedure are obvious from my criticisms of *B*, *M*, and *S* above. It seems unnecessary for me to defend passages wherein I have accepted the emendations of *M* or *S*, because, before I concluded that any of them ought to be retained, I carefully examined and always rejected it, unless an error of *B* was removed by the proposed change. I have not changed anything that was in *B* simply to secure conformity with Ciceronian usage or to obtain what I considered more logical or more complete or more elegant Latin. Nor have I thought that corrections ought to be admitted for any other reason than because something was altogether foreign to the usage of the author's time or because the sense demanded a certain change or transposition or addition or omission. There are, however, a few emendations for which I shall give some explanation or discussion, in order that I might show how I have handled the text and these I shall now treat as briefly as possible.

Procem. *Visum est de iure belli brevem disputationem habere, ut illa relectio absolutior videatur.*—The obvious meaning of

[1] A copy of *B* is to be found in the Woodstock College Library, Woodstock, Md.

[2] A copy of *M* is to be found in the Bouquillon Library of the Catholic University of America, Washington, D. C.

[3] A copy of *S* is to be found in the Library of Congress, Washington, D. C.

this passage is: "I am writing this second study, in order that the first study might be more complete." But we find the readings of *B*, *M*, and *S* different. The reading of *M* (*ut relectio superior absolutior videatur*) gives the proper sense, but it is so different from that of *B* (*ut illæ relectiones absolutiores videantur*), which preceded it, and of *S* (*ut hæc relectiones absolutiores videantur*), which followed it, that it makes one suspect its genuineness. The emendation I have proposed gives the proper sense and a satisfactory explanation of the existing readings. The reading of *B* I take to be either a deliberate change of Boyer to procure what he thought would make better sense or an incorrect extension of what he thought were abbreviated words. I do not think Boyer would be guilty of the former; the latter could have happened in the following manner. In a manuscript in which diphthongs are ligatured it is easy to mistake *illa* for *illæ*. Once this mistake was made, it would be easy to think *relectio* and *absolutior* were abbreviations, and the mistaking of third person singular forms for third person plural forms and vice versa due to the use of the macron to denote the omission of *n*, is too frequent an occurrence to need further comment (*e. g.*, *M* has *essent* for *esset*, 48; *interficiatur* for *interficiantur*, 49; *B* has *pugnat* for *pugnant*, 36).

Procem. *Quantum ad primam.*—*B*, *M*, and *S* have *primum*, which I have rejected in favor of *primam*, in spite of its being the *lectio difficilior*, because the author is speaking about the first *quæstio*, which he has just mentioned and which he is now answering. Furthermore, in speaking of the other three *quæstiones* later on he uses *secunda*, *tertia*, and *quarta*, although

it is true that with them he uses the word *quæstio* also. An *a* in the manuscripts could be very easily mistaken for a *u*, and the mistake would be difficult to detect, since it makes good sense.

1. *Et libro Contra Secundinum Manichæum et.*—*B* and *M* have *et secundo libro contra Manichæ. et*, while *S* has omitted these words entirely. I looked in vain in all of St. Augustine's writings against the Manichæans for the sentiment referred to, but it was in the *second* book of none of them. Finally, I found the correct solution of the puzzle, as given above. It is easy to account for the mistake in *B* and *M*. It is very probable that most of the references to authorities were abbreviated in the manuscripts. The editor of *B* finding, we may say, *et lib. cont. secund. Manichæ. et* in the manuscripts and thinking it a mistake (*cont.* and *secund.* inverted) transposed *secund.* to the position in which we find it and extended the abbreviation to *secundo*. The editor of *M*, facing the same state of affairs, followed *B*, while the editor of *S*, who had not access to the manuscripts, omitted the words apparently as being impossible.

1. *De verbis Domini.*—*B* and *M* have *verb.*, which the manuscripts probably had. But *S*, extending the abbreviation, erred by using the singular form (*verbo*) instead of the plural.

35. *Non licet in Republica pro delictis malorum punire innocentes. Ergo etiam nec pro iniuria malorum licet interficere innocentes apud hostes.*—*B* has *punire innocentes apud hostes* and this is followed by *M*, but in the preceding sentence *B* has *interficere*, which *M* has replaced with *punire*. The argument of the passage is: It is licit to punish guilty citizens

of the State and to kill the enemy who wrongs us, but it is not licit to punish innocent citizens because of the crimes of guilty citizens nor to kill the innocent among the enemy because of the wrong done us by the guilty among them. Consequently, *M* did right in the preceding sentence in replacing *interficere*, the reading of *B* with *punire*, although the reason may have been to have the same verb in both sentences, and may not have been suggested by the manuscripts, but *M* did not complete the correction of the transposition existing in *B* by making the reciprocal change I have indicated in the text. *S* adopts the reading of *M*.

51. *Ex quo infertur quod capta in bello iusto non compensantur cum debito principali.*—*B*, *M*, and *S* have *infert*, but Sylvester, whose words are being quoted, has *inferī* (=*infertur*), and *infert* would not make good sense in the quotation from Sylvester. Whether the mistake was made by the writers of the manuscripts or the editor of *B*, it is impossible to say, although the latter is more probable, but it would not be difficult for one to fail to notice a light tilde (cf., *e. g.*, 36, where *B* has *versant* for *versantur*).

52. *Hoc quidem per se non est illicitum.*—*B* had *de* in place of my conjecture, *quidem*, and *M* retains the *de* but *S* omits it altogether, apparently as not understanding it. That some word stood between *hoc* and *per* in the manuscripts is indicated by the fact that *B* has a word there, which is not rejected by *M*. That *de* is not the word is evident from its utter lack of sense. What then is the word? I suggest *quidem* as making good sense (cf. *tamen*, three lines further on) and as a word from which *de* could easily be derived (*q̣dē*).

57. *Ubi dicitur quod . . . cunctus populus, qui in ea est, salvabitur.*—*B*, *M*, and *S* have *dicit*, but compare this with *mandatur*, 35, and *præcipitur*, 38, where the same sentiment is expressed (a paraphrase of Deuteronomy, 20, 10–13), and see my note on *infertur*, 51, above.

It might be well to give here also an example or two of instances wherein I have refrained from adopting more logical readings, whether they have been suggested by Muñoz or now occur to me for the first time.

18. *Ad pariendam pacem et securitatem ab hostibus.*—This is the reading of *B*. *M* and *S* have *parandam*, which is by far the easier reading. I think that the reading of *B* ought to be retained, first, because it is the more difficult reading, and secondly, because the same collocation occurs in 48 (*ad pariendam pacem*), where *B* has *pariendam*, *M* has *parendum* (corrected to *parandum* in the list of errata prefixed to *M*), and *S* has *parandam*. It is not likely that *B* would have made the same mistake twice, whereas we know that *M* occasionally made improvements in the language of the manuscripts.[1] *S* has no value here because its editor never saw the manuscripts.

20. *Communiter enim non contingit quod principes gerant bellum mala fide, sed credentes se iustam causam sequi.*—*B* has no negative in this sentence, where one is evidently required. *M* puts the negative before *contingit* and in this must have followed the manuscripts, for if there had been no negative in the manuscripts, Muñoz would have placed the negative before *mala fide*, where it logically belongs, since all that

[1] Cf. *supra*, p. 33.

precedes *mala fide* belongs also to what follows *sed.* Here I agree with *M* and *S* in retaining the more difficult reading.

33. *Stat quod bellum sit iustum et licitum per se, illicitum autem Christianis.*—*B* has this reading, which I think ought to be retained, but here again *M* has substituted the more logical reading (*per accidens*) for the more difficult reading (*Christianis*) and in this is followed by *S.*

A few words with regard to peculiarities of the three editions I have been able to consult may be worth while.

All diphthongs are ligatured in *B*, *M*, and *S.*

When *n* or *m* is preceded by a vowel, a tilde is placed over the vowel and the *n* or *m* omitted in *B*, *M*, and *S.*

Initial *u* is written *v* and interior *v* is written *u* in *M.*

The enclitic *-que* is frequently written *q*; in *B* and *M*, less frequently in *S.*

The words *qui*, *quia*, and *quod*, are written in the usual abbreviated form in *B* and *M.*

In compound words, *m* followed by a dental or guttural becomes *n* in *B*, *M*, and *S.*

Joining together of two words by *B* as if they were considered as one word: *revera*, 4, 19, 38; *adhoc*, 7, 20; *econtra*, 7, 33, 39; *siqua*, 9; *nosipsos*, 21, 60.

Some spellings peculiar to the time are *author*, *authoritas*, etc. (*B* and *M*), *autor*, *autoritas*, etc. (*S*); *imo* (*B*, *M*, and *S*); *quatuor* (*B*, *M*, and *S*); *charitas*, *charissimi* (*B*, *M*, and *S*); *caussa* (*S*); *fœmina* (*B*, *M*, and *S*); *cæteri* (*B*, *M*, and *S*); *prælii* (*B*, *M*, and *S*); and *pœnitere* (*B*, *M*, and *S*).

A peculiarity of syntax that is worth mentioning is the repetition of such words as *quod* (=that) and *ergo*, when a

subordinate clause intervenes between the word and the rest of its clause (*e. g.*, *Quo ad ipsos principes, videtur quod, si unus est in legitima possessione, quod, manente dubio, non possit alius bello et armis repetere*, 27; *Intolerabile esset quod, si Galli agerent prædas in pecora Hispanorum vel incenderent pagum unum, quod liceret occupare totum regnum Francorum*, 56).

BIBLIOGRAPHY OF WORKS CONSULTED IN THE PREPARATION OF THIS DISSERTATION.

I. SOURCES.

1. Published Editions.

REVERENDI | PATRIS F. FRANCISCI DE VI|ctoria, ordinis Prædicatorū, sacræ Theologiæ | in Salmanticensi Academia quondam | primarij Professoris, Relectiones | Theologiæ XII. in duos | Tomos diuisæ: | Quarum seriem uersa pagella indicabit. | SVMMARIIS suis ubique locis adiectis, una cum | INDICE omnium copiosissimo. | (*Vignette*) | Lugduni, apud Iacobum Boyerium, | M. D. LVII. | Cum priuilegio Regis ad decennium.

REVERENDI | Patris F. Frācisci Victoriæ or|di. Præd. sacræ Theologiæ professoris eximij atq; | in Salmāticensi Academia quondam Chatedræ | primariæ moderatoris prælectorisq; incōparabi|lis Relectiones vndecim. Per R. P. præsentatum | F. Alfonsum Muñoz eiusdē ordi. a prodigiosis in|numerabilibusq; vitijs, quibus Boyeri, hoc est pri|ma æditio, plena erat summa cura repurga|tæ, atq; ad germana exemplaria in|tegritati ac sinceritati na|tiuæ restitutæ. | Quarum seriem versa pagella indicabit. | (*Vignette*) | SALMANTICÆ, | Apud Ioannem a Canoua. | M. D. LXV. | CVM PRIVILEGIO.

FRANCISCI de VICTORIA | Theologi Hispani celeberrimi | RELECTIONES | MORALES | Duobus tomis comprehensæ, | Quarum seriem versa pagina in|dicabit Antea Ingolstadii editæ nunc pro|pter exemplarium defectum & rerum nobiltatem | recognitæ & duplice indice ornatæ | Opera, | JOH. GEORGII SIMONIS, | J. U. D. Consiliarii & Profess. | Hallensis. | Opus Omnibus tam JureConsultis quam | Theologis imprimis utile. | COLONIÆ & FRANCOFVRTI, | Sumptibus AUGUSTI BOETII. | M DC XCVI.

2. Translations.

Vanderpol, A. La Guerre devant le Christianisme. (Ouvrage suivi d'une traduction du "De Iure Belli" de François de Victoria). 2me Edition. Tralin, Paris, [1911]. The translation occupies pages 223–274.

Bate, John Pawley. Relectiones De Indis et De Iure Belli, with Introduction by Ernest Nys and Translation of the Text by John Pawley Bate. Carnegie Institution of Washington, Washington, D. C., in press.

II. WORKS.

1. General.

A. Time and Influence.

Barthélemy, Joseph. François de Vitoria. *In* Les Fondateurs du Droit International, avec une Introduction de Antoine Pillet. Paris, V. Giard & E. Brière, 1904, pp. 1–36.

Deschamps, Fernand. La Philosophie Scolastique et la Guerre. *In* The Dublin Review, vol. 158, no. 317, April, 1916, pp. 230–258.

Hallam, Henry. Introduction to the Literature of Europe in the fifteenth, sixteenth, and seventeenth centuries. London, n. d.

Holland, Thomas Erskine. Studies in International Law. Oxford, 1898.

Morhofius, Daniel Georgius. Polyhistor Literarius, Philosophicus et Practicus. Ed. 3, vol. II, Lubeck, 1732.

Nys, Ernest. Le Droit de la Guerre et les Précurseurs de Grotius. Brussels and Leipzig, C. Muquardt, Merzbach & Falk, 1882.

Nys, Ernest. Les Origines du Droit International. Brussels, Alfred Castaigne, 1894.

Nys, Ernest. Relectiones De Indis et De Iure Belli, with Introduction by Ernest Nys and Translation of the Text by John Pawley Bate. Carnegie Institution of Washington, Washington. D. C., in press.

Ompteda, Diederich Heinrich Ludwig. Litteratur des gesammten sowohl natürlichen als positiven Völkerrechts. Ratisbon, Joh. Leop. Montags sel Erben, 1785.

Périn, Charles. L'Ordre International. Paris, Lecoffre, 1888.

Vanderpol, A. Le Traité "De Indis" de François de Victoria. *In* Bulletin de la Ligue des Catholiques Français pour la Paix, No. 13, 3me Trim., 1910, pp. 18–37.

Vanderpol, A. Le Droit de Guerre d'après les Théologiens et les Canonistes du Moyen-âge. Tralin, Paris, 1911.

Vanderpol, A. La Guerre devant le Christianisme. (Ouvrage suivi d'une traduction du "De Iure Belli" de François de Victoria), 2me Edition. Tralin, Paris, [1911].

Vanderpol, A. Le Droit de Guerre de François de Victoria. *In* Bulletin de la Ligue des Catholiques Français pour la Paix, No. 20, 2me Trim., 1912, pp. 6–23.

Walker, Thomas Alfred. A History of the Law of Nations. Vol. I. Cambridge, 1899.

B. Language.

Cooper, F. T. Word Formation in the Roman Sermo Plebeius. New York, 1905.

Ducange, Ch. du Fresne. Glossarium ad Scriptores Mediæ et Infimæ Latinitatis. Paris, C. Osmont, 1733, 6 vols.

Lewis, Charlton T., and Charles Short. A New Latin Dictionary (Founded on the Translation of Freund's Latin-German Lexicon), Edited by E. A. Andrews. New York, Harper & Bros., 1895.

Thesaurus Linguae Latinae. Editus Auctoritate et Consilio Academiarum Quinque Germanicarum. Leipzig, Teubner, Vol. I, 1900, Vol. II, 1900–1906; Vol. III, 1906–1912; Vol. IV, 1906–1909; Vol. V (five fascicles), 1910–1913; Vol. VI (two fascicles), 1913–1915.

2. Special.

Antonio, Nicolaus. Bibliotheca Hispana Nova. Vol. I. Madrid, 1783, pp. 496–497.

Bibliographie Générale, Nouvelle. Vol. XVIII. Paris, 1858.

Catholic Encyclopedia, The. Vol. VI. New York, Robert Appleton Company, 1909.

Dupin, Ellies. Nouvelle Bibliothèque des Auteurs Ecclésiastiques. Vol. XIV. Paris, 1703, pp. 172–175.

Hurter, Hugo. Nomenclator Literarius Theologiæ Catholicæ, Theologos Exhibens Aetate, Natione, Disciplinis Distinctos. Tomus II. Ed. [3] emendata et plurimum aucta. Innsbruck, Wagner, 1906, pp. 1367–1370.

Quétif, Jacques, et Jacques Echard. Scriptores Ordinis Prædicatorum. Vol. II. Paris, Bullard & Simart, 1721, pp. 128–130.

Touron, Antoine. Histoire des Hommes Illustres de l'Ordre de Saint Dominique; c'est-à-dire, des Papes, des Cardinaux, des Prélats éminens en Science et en Sainteté; des Célébres Docteurs, et des autres grands Personages, qui ont le plus illustré cet Ordre, depuis la Mort du S. Fondateur jusqu'au Pontificat de Benoît XIII. Tome Quatriéme. Paris, Babuty & Quillau, 1747, pp. 55–65.

Wetzer und Welte's Kirchenlexikon oder Encyklopädie der katholischen Theologie und ihrer Hülfwissenschaften. (Ed. Hergenröther-Kaulen). Vol. II. Zweite Aufl. Freiburg, 1886, pp. 1837–1839.

III. TEXTS USED TO VERIFY PASSAGES IN AUTHORS REFERRED TO BY VICTORIA.

Ambrose, St. Opera. Pars Prima. (Rec. Carolus Schenkl.) Vienna, Tempsky, 1897. (Corp. Script. Eccles. Lat.)

Antoninus, St. Summa Theologica, in Quattuor Partes Distributa. Pars Secunda. Verona, Augustinus Carattonius, 1740.

Aristotle. Ethica Nicomachea. Ed. [3] (Susemihl-Apelt). Leipzig, Teubner, 1912.

Aristotle. Politica. (ed. Susemihl-Immisch). Leipzig, Teubner, 1909.

Augustine, St. De Civitate Dei Libri XXII. (Rec. et comm. crit. instr. Emanuel Hoffman.) Vienna, Tempsky, Vol. I, 1898, Vol. II, 1900. (Corp. Script. Eccles. Lat.)

Augustine, St. De Diversis Quaestionibus LXXXIII Liber Unus. *In* Patrologiæ Cursus Completus (ed. Migne), Tomus XL. Paris, Migne, 1845, pp. 11–100.

Augustine, St. Epistulæ. (Rec. et comm. crit. instr. Al. Goldbacher.) Vienna, Tempsky, Pars III, 1904, Pars IV, 1911. (Corp. Script. Eccles. Lat.)

Augustine, St. Contra Faustum Manichæum Libri XXIII. *In* Patrologiæ Cursus Completus (ed. Migne), Tomus XLII. Paris, Migne, 1845, pp. 207–518.

Augustine, St. Contra Litteras Petiliani Libri Tres. (Rec. M. Petschenig.) Vienna, Tempsky, 1909. (Corp. Script. Eccles. Lat.)

Augustine, St. Quaestionum in Heptateuchum Libri VII. (Rec. Ios. Zycha.) Vienna, Tempsky, 1895. (Corp. Script. Eccles. Lat.)

Augustine, St. Contra Secundinum Liber. (Rec. Iosephus Zycha.) Vienna, Tempsky, 1892. (Corp. Script. Eccles. Lat.)

Bartolus. Omnium Iuris Interpretum Antesignani Commentaria. Tomus Sextus. Venice, 1590.

Cicero. De Officiis. (ed. Miller.) Macmillan, 1913. (Loeb Classical Library.)

Corpus Iuris Canonici. Ed. [2] (Richter-Friedberg). Leipzig, Tauschnitz, Vol. I, 1879, Vol. II, 1881.

Corpus Iuris Civilis. Vol. I. Ed. [10] (Krueger-Mommsen). Berlin, Weidmann, 1905.

Horace. Epistulae. *In* Carmina. (ed. Vollmer.) Leipzig, Teubner, 1912.

Sallust. De Catilinæ Coniuratione. Ed. [4] (R. Dietsch). Leipzig, Teubner, 1874.

Sylvester. Summa Sylvestrina, quae Summa Summarum merito nuncupatur. (ed. Petrus Vendramenus.) Venice, Hieronymus & Nicolaus Polus, 1601.

Terence. Eunuchus. *In* Opera. Vol. I. (ed. R. Klotz.) Leipzig, Schwickert, 1838.

Tertullian. De corona. *In* Patrologiæ Cursus Completus (ed. Migne), Tomus II. Paris, Migne, 1845, pp. 74–102.

Thomas Aquinas, St. Opera Omnia. (ed. Fretté.) Paris, L. Vivès, 1871–1880, 34 vols.

Tedeschi, Nicolò. Commentaria Primæ Partis in Secundum Librum Decretalium. Venice, 1588.

INDEX OF AUTHORS REFERRED TO BY VICTORIA.

[All of the references in the text have been verified in the original texts of the authors cited, except those of Guido de Baysio and Pope Adrian VI, to whose works I had not access. In the list below, the numbers outside of the parentheses indicate the passages referred to by Victoria, the numbers inside of the parentheses indicate the propositions of the *De Iure Belli* in which the citation is to be found. Procem. (=procemium) indicates all that portion of the *De Iure Belli* which precedes proposition 1.]

Adrian VI, Pope, *Quæstiones quodlibeticæ*, (51); 2, 2(30)

Ambrose, St., (56)

De patriarchis, 1, 3 (51)

Antoninus, St., of Florence (quoted as Archiepiscopus), *Summa*, II, 7, 8, 1 (4)

Aquinas, Thomas, St., *see* Thomas Aquinas, St.

Archidiaconus, *see* de Baysio, Guido.

Archiepiscopus, *see* Antoninus, St.

Aristotle, *Ethics*, 2, 6 (20)

Politics, 1, 3–4 (12); 3, 1 (5); 4, 10 (12)

Augustine, St., *De civitate Dei*, 5 (56)

De diversis quæstionibus LXXXIII, 31, 1 (1)

Epistulæ, 138, 15 (1); 189, 4 (1); 189, 6 (1)

Contra Faustum Manichæum, 22, 74–75 (1); 22, 75 (6, 31)

Contra litteras Petiliani, 2, 43 (51)

Quæstiones in Heptateuchum, 6, 10 (1, 13)

Contra Secundinum, 10 (1)

Sermones, 82 (1)

Bartolus, of Sassoferato, *On Digest*, 48, 8, 9 (4); 48, 19, 1 (4); 49, 15, 28 (51)

de Baysio, Guido, of Bologna (quoted as Archidiaconus), *On Decretum*, II, 23, 2, 2 (51)

Cicero, *De officiis*, 2, 5 (47)

Corpus Iuris Canonici:

Decretum, I, 1, 9 (51); I, 4, 2 (12); II, 23, 1, 2 (1); II, 23, 1, 3 (1); II, 23, 1, 4 (1, 6, 31); II, 23, 1, 5 (1); II, 23, 2, 2 (1, 13); II, 23, 5, 25 (51); II, 23, 7, 2 (51)

Decretales, II, 13, 12 (4); IV, 21, 2 (30); V, 39, 44 (30)

Liber Sextus, 5, 11, 6 (4)

Corpus Iuris Civilis:
Institutiones, 2, 1, 17 (51)
Digesta, 1, 1, 3 (1, 3); 47, 10, 15 (4); 48, 8, 9 (4); 48, 19, 10 (4); 49, 15, 24 (51); 49, 15, 28 (51)
Hadrian, *see* Adrian VI, Pope.
Hieronymus, *see* Jerome, St.
Horace, *Epistulæ*, 1, 2, 14 (60)
Isidore, St., of Seville, *Etymologiæ*, V, 6 (12)
Jerome, St. (56)
New Testament:
St. James, 1, 25 (1), 2, 12 (1)
St. John, 19, 15 (26)
St. Luke, 3, 14 (1); 20, 25 (56)
St. Matthew, 5, 39 (procem.); 12, 18 (60); 13, 29–30 (37); 18, 7 (48); 22, 21 (56); 26, 52 (procem.)
Romans, 1, 32 (22); 12, 19 (procem.) ; 13, 1–7 (56); 13, 4 (1, 13); 14, 23 (23); 15, 4 (34)
Old Testament:
Deuteronomy, 20, 10–14 (35, 38, 45, 48, 56, 57); 20, 14 (51); 25, 2 (14, 48)
Exodus, 23, 7 (35)
Genesis, 14, 13 (1, 51)
Josue, 6, 21 (34)
I Kings, 6, 21 (34)
I Machabees, 9, 35–41 (1)
Psalms, 81, 4 (1)
Panormitanus, *see* Tedeschi, Nicolò.
Sallust, *De Catilinæ coniuratione*, 12 (47); 51 (21)
Sylvester, of Prierio, *Summa Summarum*, s. v. bellum, 1, 9, 2 (51) 1, 9, 3 (33); 1, 10, 3 (40, 52)
Terence, *Eunuchus*, IV, 7, 19 (21)
Tertullian, *De corona*, 11 (procem.)
Thomas Aquinas, St., *De regimine principum*, 3, 13 (56)
Summa theologica, II, i, 107, 4 (1); II, ii, 40, 1 (1, 13); II, ii, 66, 8 (10)
Tedeschi, Nicolò, *On Decretals*, II, 13, 12, 17 (4)

VITA.

The author of this dissertation was born in Washington, D. C., March 28, 1892, and received his primary education in the public schools, his high school education in the Georgetown College Preparatory School (1903–1907), and his college education at Georgetown University (1907–1911), from which institution he received the degree of Bachelor of Arts in June, 1911. Since October, 1911, he has been a graduate student at the Catholic University of America under Rev. Dr. John Damen Maguire (Latin Language and Literature), Dr. George Melville Bolling (Greek Language and Literature and Comparative Philology), Dr. John Bartholomew O'Connor (Greek Language and Literature), and Rev. Dr. Thomas Edward Shields (Education), receiving the degree of Master of Arts in June, 1912.